

Translation

PATENT COOPERATION TREATY

PCT/FR2003/003575



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference EU1614.10727CL/NA	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/FR2003/003575	International filing date (<i>day/month/year</i>) 03 décembre 2003 (03.12.2003)	Priority date (<i>day/month/year</i>) 04 décembre 2002 (04.12.2002)
International Patent Classification (IPC) or national classification and IPC A61F 2/16, B65B 31/00		
Applicant EUROCRYSTAL		

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of _____ sheets.</p>	
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the report</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>	

Date of submission of the demand 02 juillet 2004 (02.07.2004)	Date of completion of this report 04 April 2005 (04.04.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/FR2003/003575

I. Basis of the report

1. With regard to the **elements** of the international application:*

- ☒ the international application as originally filed
- ☒ the description:
pages _____ 1-20 _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☒ the claims:
pages _____ 1-18 _____, as originally filed
pages _____, as amended (together with any statement under Article 19
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☒ the drawings:
pages _____ 1/5-5/5 _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/FR 03/03575

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-18	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-18	NO
Industrial applicability (IA)	Claims	1-18	YES
	Claims		NO

2. Citations and explanations

1. Relevant documents

Reference is made to the following documents:

D1: US 4 787 904 A
D2: WO 98 20819 A
D3: US 2002 0156486 A
D4: US 4 860 885 A

2. Claims 1 and 7

The present application fails to meet the requirements of PCT Article 33(1), since the subject matter of claims 1 and 7 does not involve an inventive step as defined by PCT Article 33(3).

D1, which can be considered to be the closest prior art, describes a method (and the corresponding device) for packaging a hydrophilic flexible intraocular lens, in which:

- the lens is placed on an injection support (see [51]) including an implantation end (see [67]) by means of which the lens can be slid and ejected for the purposes of being intraocularly implanted; said injection support (see [51]) is suitable for receiving and holding the lens and for being

associated with an injection device (see [58]+[61]+[63]) including a plunger (see [58]) for pushing the lens onto the injection support towards the implantation end;

- the lens and the injection support are put into a package (see [68]) containing a volume (see figure 11 and the description: column 8, line 66 to column 9, line 3) of lens preserving solution, which bathes the lens and keeps it hydrated;
- the lens is placed on the injection support (see [51]) and is immersed in a bath of preserving solution (see [66]) contained in a rigid liquid-tight flask (see [52]) that is resealed.

Consequently, D1 describes a packaging method (and the corresponding device) from which the subject matter of claims 1 and 7 only differs by the fact that, in said claims:

- (a) an injection support (4) is used for receiving and supporting the lens (1) flat and for folding the lens (1) before the latter is ejected via the implantation end (5);
- (b) the assembly is then steam sterilised.

Both the above distinctive features are nevertheless suggested (and therefore made obvious) by D2 (see figures 6, 7, 10 and 11 for feature (a) and figure 1 and the description, page 11, lines 20 to 21 for feature (b)) in the same field.

It is obvious for a person skilled in the art to apply said features (a) and (b) separately, with a corresponding effect each time, in a method (and device) according to D1 and thereby obtain a method (and device) according to claims 1 and 7, without an inventive step being involved (PCT Article 33(3)).

3. Dependent claims

Dependent claims 2 to 6 and 8 to 18 contain no feature which, when combined with the features of any one of the claims to which they refer, defines subject matter that complies with the PCT requirements of inventive step (PCT Article 33(3))

In particular, the subject matter of claims 3 and 9 is not inventive because the method (and device) known from D3 (see the "furler & injector" of figure 2) has the additional structural features of said claims.

Finally, the lens support having the shape of a lidded flask, as claimed in claims 4 and 10, is already known from D4 (see figure 4).

The subject matter of claims 1 to 18 is industrially applicable (PCT Article 33(4)).